

House Calendar No. 124

105TH CONGRESS
1ST Session

H. J. RES. 92

[Report No. 105-369]

JOINT RESOLUTION

Granting the consent of Congress to the Alabama-Coosa-Tallapoosa River Basin Compact.

OCTOBER 31, 1997

Reported with an amendment, referred to the House
Calendar, and ordered to be printed

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Granting the consent of Congress to the Alabama-Coosa-Tallapoosa River
Basin Compact.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1997

Mr. CALLAHAN (for himself, Mr. BARR of Georgia, Mr. ADERHOLT, Mr. BACHUS, Mr. BISHOP, Mr. CHAMBLISS, Mr. COLLINS, Mr. CRAMER, Mr. DEAL of Georgia, Mr. EVERETT, Mr. HILLIARD, Mr. GINGRICH, Mr. KINGSTON, Mr. LEWIS of Georgia, Mr. LINDER, Mr. NORWOOD, and Mr. RILEY) introduced the following joint resolution; which was referred to the Committee on the Judiciary

OCTOBER 31, 1997

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[Strike out all after the resolving clause and insert the part printed in italic]

[For text of introduced joint resolution, see copy of joint resolution as introduced on July 31,
1997]

JOINT RESOLUTION

Granting the consent of Congress to the Alabama-Coosa-
Tallapoosa River Basin Compact.

1 *Resolved by the Senate and House of Representatives*
 2 *of the United States of America in Congress assembled,*
 3

4 **SECTION 1. CONGRESSIONAL CONSENT.**

5 *The Congress consents to the Alabama-Coosa-*
 6 *Tallapoosa River Basin Compact entered into by the States*
 7 *of Alabama and Georgia. The compact is substantially as*
 8 *follows:*

9 **“Alabama-Coosa-Tallapoosa River Basin**
 10 **Compact**

11 *“The States of Alabama and Georgia and the United*
 12 *States of America hereby agree to the following compact*
 13 *which shall become effective upon enactment of concurrent*
 14 *legislation by each respective state legislature and the Con-*
 15 *gress of the United States*

16 **“SHORT TITLE**

17 *“This Act shall be known and may be cited as the ‘Ala-*
 18 *bama-Coosa-Tallapoosa River Basin Compact’ and shall be*
 19 *referred to hereafter in this document as the ‘ACT Compact’*
 20 *or ‘Compact’.*

21 **“ARTICLE I**

22 **“COMPACT PURPOSES**

23 *“This Compact among the States of Alabama and*
 24 *Georgia and the United States of America has been entered*
 25 *into for the purposes of promoting interstate comity, remov-*

1 *ing causes of present and future controversies, equitably ap-*
 2 *portioning the surface waters of the ACT, engaging in water*
 3 *planning, and developing and sharing common data bases.*

4 *“ARTICLE II*

5 *“SCOPE OF THE COMPACT*

6 *“This Compact shall extend to all of the waters arising*
 7 *within the drainage basin of the ACT in the states of Ala-*
 8 *bama and Georgia.*

9 *“ARTICLE III*

10 *“PARTIES*

11 *“The parties to this Compact are the states of Alabama*
 12 *and Georgia and the United States of America.*

13 *“ARTICLE IV*

14 *“DEFINITIONS*

15 *“For the purposes of this Compact, the following*
 16 *words, phrases and terms shall have the following meanings:*

17 *“(a) ‘ACT Basin’ or ‘ACT’ means the area of natural*
 18 *drainage into the Alabama River and its tributaries, the*
 19 *Coosa River and its tributaries, and the Tallapoosa River*
 20 *and its tributaries. Any reference to the rivers within this*
 21 *Compact will be designated using the letters ‘ACT’ and*
 22 *when so referenced will mean each of these three rivers and*
 23 *each of the tributaries to each such river.*

24 *“(b) ‘Allocation formula’ means the methodology, in*
 25 *whatever form, by which the ACT Basin Commission deter-*

1 *mines an equitable apportionment of surface waters within*
 2 *the ACT Basin among the two states. Such formula may*
 3 *be represented by a table, chart, mathematical calculation*
 4 *or any other expression of the Commission’s apportionment*
 5 *of waters pursuant to this compact.*

6 “(c) ‘Commission’ or ‘ACT Basin Commission’ means
 7 *the Alabama-Coosa-Tallapoosa River Basin Commission*
 8 *created and established pursuant to this Compact.*

9 “(d) ‘Ground waters’ means waters within a saturated
 10 *zone or stratum beneath the surface of land, whether or not*
 11 *flowing through known and definite channels.*

12 “(e) ‘Person’ means any individual, firm, association,
 13 *organization, partnership, business, trust, corporation, pub-*
 14 *lic corporation, company, the United States of America,*
 15 *any state, and all political subdivisions, regions, districts,*
 16 *municipalities, and public agencies thereof.*

17 “(f) ‘Surface waters’ means waters upon the surface
 18 *of the earth, whether contained in bounds created naturally*
 19 *or artificially or diffused. Water from natural springs shall*
 20 *be considered ‘surface waters’ when it exits from the spring*
 21 *onto the surface of the earth.*

22 “(g) ‘United States’ means the executive branch of the
 23 *Government of the United States of America, and any de-*
 24 *partment, agency, bureau or division thereof.*

8 “ARTICLE V
9 “CONDITIONS PRECEDENT TO LEGAL VIABILITY
10 OF THE COMPACT

15 “ARTICLE VI

17 “(a) There is hereby created an interstate administra-
18 tive agency to be known as the ‘ACT Basin Commission.’
19 The Commission shall be comprised of one member rep-
20 resenting the State of Alabama, one member representing
21 the State of Georgia, and one non-voting member represent-
22 ing the United States of America. The State members shall
23 be known as ‘State Commissioners’ and the Federal member
24 shall be known as ‘Federal Commissioner.’ The ACT Basin

1 *Commission is a body politic and corporate, with succession*
 2 *for the duration of this Compact.*

3 “(b) *The Governor of each of the States shall serve as*
 4 *the State Commissioner for his or her State. Each State*
 5 *Commissioner shall appoint one or more alternate members*
 6 *and one of such alternates as designated by the State Com-*
 7 *missioner shall serve in the State Commissioner’s place and*
 8 *carry out the functions of the State Commissioner, includ-*
 9 *ing voting on Commission matters, in the event the State*
 10 *Commissioner is unable to attend a meeting of the Commis-*
 11 *sion. The alternate members from each State shall be knowl-*
 12 *edgeable in the field of water resources management. Unless*
 13 *otherwise provided by law of the State for which an alter-*
 14 *nate State Commissioner is appointed, each alternate State*
 15 *Commissioner shall serve at the pleasure of the State Com-*
 16 *missioner. In the event of a vacancy in the office of an alter-*
 17 *nate, it shall be filled in the same manner as an original*
 18 *appointment.*

19 “(c) *The President of the United States of America*
 20 *shall appoint the Federal Commissioner who shall serve as*
 21 *the representative of all Federal agencies with an interest*
 22 *in the ACT. The President shall also appoint an alternate*
 23 *Federal Commissioner to attend and participate in the*
 24 *meetings of the Commission in the event the Federal Com-*
 25 *missioner is unable to attend meetings. When at meetings,*

1 *the alternate Federal Commissioner shall possess all of the*
2 *powers of the Federal Commissioner. The Federal Commis-*
3 *sioner and alternate appointed by the President shall serve*
4 *until they resign or their replacements are appointed.*

5 “(d) *Each state shall have one vote on the ACT Basin*
6 *Commission and the Commission shall make all decisions*
7 *and exercise all powers by unanimous vote of the two State*
8 *Commissioners. The Federal Commissioner shall not have*
9 *a vote but shall attend and participate in all meetings of*
10 *the ACT Basin Commission to the same extent as the State*
11 *Commissioners.*

12 “(e) *The ACT Basin Commission shall meet at least*
13 *once a year at a date set at its initial meeting. Such initial*
14 *meeting shall take place within ninety days of the ratifica-*
15 *tion of the Compact by the Congress of the United States*
16 *and shall be called by the chairman of the Commission. Spe-*
17 *cial meetings of the Commission may be called at the discre-*
18 *tion of the chairman of the Commission and shall be called*
19 *by the chairman of the Commission upon written request*
20 *of any member of the Commission. All members shall be*
21 *notified of the time and place designated for any regular*
22 *or special meeting at least five days prior to such meeting*
23 *in one of the following ways: by written notice mailed to*
24 *the last mailing address given to the Commission by each*
25 *member, by facsimile, telegram or by telephone. The Chair-*

1 *manship of the Commission shall rotate annually among*
2 *the voting members of the Commission on an alphabetical*
3 *basis, with the first chairman to be the State Commissioner*
4 *representing the State of Alabama.*

5 “(f) *All meetings of the Commission shall be open to*
6 *the public.*

7 “(g) *The ACT Basin Commission, so long as the exer-*
8 *cise of power is consistent with this Compact, shall have*
9 *the following general powers:*

10 “(1) *to adopt bylaws and procedures governing*
11 *its conduct;*

12 “(2) *to sue and be sued in any court of com-*
13 *petent jurisdiction;*

14 “(3) *to retain and discharge professional, tech-*
15 *nical, clerical and other staff and such consultants as*
16 *are necessary to accomplish the purposes of this Com-*
17 *pact;*

18 “(4) *to receive funds from any lawful source and*
19 *expend funds for any lawful purpose;*

20 “(5) *to enter into agreements or contracts, where*
21 *appropriate, in order to accomplish the purposes of*
22 *this Compact;*

23 “(6) *to create committees and delegate respon-*
24 *sibilities;*

1 “(7) to plan, coordinate, monitor, and make rec-
2 ommendations for the water resources of the ACT
3 Basin for the purposes of, but not limited to, mini-
4 mizing adverse impacts of floods and droughts and
5 improving water quality, water supply, and conserva-
6 tion as may be deemed necessary by the Commission;

7 “(8) to participate with other governmental and
8 non-governmental entities in carrying out the pur-
9 poses of this Compact;

10 “(9) to conduct studies, to generate information
11 regarding the water resources of the ACT Basin, and
12 to share this information among the Commission
13 members and with others;

14 “(10) to cooperate with appropriate state, fed-
15 eral, and local agencies or any other person in the de-
16 velopment, ownership, sponsorship, and operation of
17 water resource facilities in the ACT Basin; provided,
18 however, that the Commission shall not own or oper-
19 ate a federally-owned water resource facility unless
20 authorized by the United States Congress;

21 “(11) to acquire, receive, hold and convey such
22 personal and real property as may be necessary for
23 the performance of its duties under the Compact; pro-
24 vided, however, that nothing in this Compact shall be
25 construed as granting the ACT Basin Commission

1 *authority to issue bonds or to exercise any right of*
 2 *eminent domain or power of condemnation;*

3 *“(12) to establish and modify an allocation for-*
 4 *mula for apportioning the surface waters of the ACT*
 5 *Basin among the states of Alabama and Georgia; and*

6 *“(13) to perform all functions required of it by*
 7 *this Compact and to do all things necessary, proper*
 8 *or convenient in the performance of its duties here-*
 9 *under, either independently or in cooperation with*
 10 *any state or the United States.*

11 “ARTICLE VII

12 “EQUITABLE APPORTIONMENT

13 *“(a) It is the intent of the parties to this Compact to*
 14 *develop an allocation formula for equitably apportioning*
 15 *the surface waters of the ACT Basin among the states while*
 16 *protecting the water quality, ecology and biodiversity of the*
 17 *ACT, as provided in the Clean Water Act, 33 U.S.C. Sec-*
 18 *tions 1251 et seq., the Endangered Species Act, 16 U.S.C.*
 19 *Sections 1532 et seq., the National Environmental Policy*
 20 *Act, 42 U.S.C. Sections 4321 et seq., the Rivers and Har-*
 21 *bors Act of 1899, 33 U.S.C. Sections 401 et seq., and other*
 22 *applicable federal laws. For this purpose, all members of*
 23 *the ACT Basin Commission, including the Federal Com-*
 24 *missioner, shall have full rights to notice of and participa-*
 25 *tion in all meetings of the ACT Basin Commission and*

1 *technical committees in which the basis and terms and con-*
2 *ditions of the allocation formula are to be discussed or nego-*
3 *tiated. When an allocation formula is unanimously ap-*
4 *proved by the State Commissioners, there shall be an agree-*
5 *ment among the states regarding an allocation formula. The*
6 *allocation formula thus agreed upon shall become effective*
7 *and binding upon the parties to this Compact upon receipt*
8 *by the Commission of a letter of concurrence with said for-*
9 *mula from the Federal Commissioner. If, however, the Fed-*
10 *eral Commissioner fails to submit a letter of concurrence*
11 *to the Commission within two hundred ten (210) days after*
12 *the allocation formula is agreed upon by the State Commis-*
13 *sioners, the Federal Commissioner shall within forty-five*
14 *(45) days thereafter submit to the ACT Basin Commission*
15 *a letter of nonconcurrence with the allocation formula set-*
16 *ting forth therein specifically and in detail the reasons for*
17 *nonconcurrence; provided, however, the reasons for non-*
18 *concurrence as contained in the letter of nonconcurrence*
19 *shall be based solely upon federal law. The allocation for-*
20 *mula shall also become effective and binding upon the par-*
21 *ties to this Compact if the Federal Commissioner fails to*
22 *submit to the ACT Basin Commission a letter of nonconcur-*
23 *rence in accordance with this Article. Once adopted pursu-*
24 *ant to this Article, the allocation formula may only be*
25 *modified by unanimous decision of the State Commissioners*

1 *and the concurrence by the Federal Commissioner in ac-*
2 *cordance with the procedures set forth in this Article.*

3 “(b) *The parties to this Compact recognize that the*
4 *United States operates certain projects within the ACT*
5 *Basin that may influence the water resources within the*
6 *ACT Basin. The parties to this Compact further acknowl-*
7 *edge and recognize that various agencies of the United*
8 *States have responsibilities for administering certain fed-*
9 *eral laws and exercising certain federal powers that may*
10 *influence the water resources within the ACT Basin. It is*
11 *the intent of the parties to this Compact, including the*
12 *United States, to achieve compliance with the allocation*
13 *formula adopted in accordance with this Article. Accord-*
14 *ingly, once an allocation formula is adopted, each and every*
15 *officer, agency, and instrumentality of the United States*
16 *shall have an obligation and duty, to the maximum extent*
17 *practicable, to exercise their powers, authority, and discre-*
18 *tion in a manner consistent with the allocation formula so*
19 *long as the exercise of such powers, authority, and discre-*
20 *tion is not in conflict with federal law.*

21 “(c) *Between the effective date of this Compact and the*
22 *approval of the allocation formula under this Article, the*
23 *signatories to this Compact agree that any person who is*
24 *withdrawing, diverting, or consuming water resources of the*
25 *ACT Basin as of the effective date of this Compact, may*

1 *continue to withdraw, divert or consume such water re-*
2 *sources in accordance with the laws of the state where such*
3 *person resides or does business and in accordance with ap-*
4 *plicable federal laws. The parties to this Compact further*
5 *agree that any such person may increase the amount of*
6 *water resources withdrawn, diverted or consumed to satisfy*
7 *reasonable increases in the demand of such person for water*
8 *between the effective date of this Compact and the date on*
9 *which an allocation formula is approved by the ACT Basin*
10 *Commission as permitted by applicable law. Each of the*
11 *state parties to this Compact further agree to provide writ-*
12 *ten notice to each of the other parties to this Compact in*
13 *the event any person increases the withdrawal, diversion*
14 *or consumption of such water resources by more than 10*
15 *million gallons per day on an average annual daily basis,*
16 *or in the event any person, who was not withdrawing, di-*
17 *verting or consuming any water resources from the ACT*
18 *Basin as of the effective date of this Compact, seeks to with-*
19 *draw, divert or consume more than one million gallons per*
20 *day on an average annual daily basis from such resources.*
21 *This Article shall not be construed as granting any perma-*
22 *nent, vested or perpetual rights to the amounts of water*
23 *used between January 3, 1992 and the date on which the*
24 *Commission adopts an allocation formula.*

1 “(d) *As the owner, operator, licensor, permitting au-*
 2 *thority or regulator of a water resource facility under its*
 3 *jurisdiction, each state shall be responsible for using its best*
 4 *efforts to achieve compliance with the allocation formula*
 5 *adopted pursuant to this Article. Each such state agrees to*
 6 *take such actions as may be necessary to achieve compliance*
 7 *with the allocation formula.*

8 “(e) *This Compact shall not commit any state to agree*
 9 *to any data generated by any study or commit any state*
 10 *to any allocation formula not acceptable to such state.*

11 “ARTICLE VIII

12 “CONDITIONS RESULTING IN TERMINATION OF
 13 THE COMPACT

14 “(a) *This Compact shall be terminated and thereby be*
 15 *void and of no further force and effect if any of the following*
 16 *events occur:*

17 “(1) *The legislatures of the states of Alabama*
 18 *and Georgia each agree by general laws enacted by*
 19 *each state within any three consecutive years that this*
 20 *Compact should be terminated.*

21 “(2) *The United States Congress enacts a law ex-*
 22 *pressly repealing this Compact.*

23 “(3) *The States of Alabama and Georgia fail to*
 24 *agree on an equitable apportionment of the surface*
 25 *waters of the ACT as provided in Article VII(a) of*

1 *this Compact by December 31, 1998, unless the voting*
 2 *members of the ACT Basin Commission unanimously*
 3 *agree to extend this deadline.*

4 *“(4) The Federal Commissioner submits to the*
 5 *Commission a letter of nonconcurrence in the initial*
 6 *allocation formula in accordance with Article VII(a)*
 7 *of the Compact, unless the voting members of the ACT*
 8 *Basin Commission unanimously agree to allow a sin-*
 9 *gle 45 day period in which the non-voting Federal*
 10 *Commissioner and the voting State Commissioners*
 11 *may renegotiate an allocation formula and the Fed-*
 12 *eral Commissioner withdraws the letter of nonconcur-*
 13 *rence upon completion of this renegotiation.*

14 *“(b) If the Compact is terminated in accordance with*
 15 *this Article it shall be of no further force and effect and*
 16 *shall not be the subject of any proceeding for the enforce-*
 17 *ment thereof in any federal or state court. Further, if so*
 18 *terminated, no party shall be deemed to have acquired a*
 19 *specific right to any quantity of water because it has become*
 20 *a signatory to this Compact.*

21 *“ARTICLE IX*
 22 *“COMPLETION OF STUDIES PENDING ADOPTION*
 23 *OF ALLOCATION FORMULA*

24 *“The ACT Basin Commission, in conjunction with one*
 25 *or more interstate, federal, state or local agencies, is hereby*

1 *authorized to participate in any study in process as of the*
 2 *effective date of this Compact, including, without limita-*
 3 *tion, all or any part of the Alabama-Coosa-Tallapoosa/*
 4 *Apalachicola-Chattahoochee-Flint River Basin Comprehen-*
 5 *sive Water Resource Study, as may be determined by the*
 6 *Commission in its sole discretion.*

7 “ARTICLE X

8 “RELATIONSHIP TO OTHER LAWS

9 “(a) *It is the intent of the party states and of the Unit-*
 10 *ed States Congress by ratifying this Compact, that all state*
 11 *and federal officials enforcing, implementing or administer-*
 12 *ing other state and federal laws affecting the ACT Basin*
 13 *shall, to the maximum extent practicable, enforce, imple-*
 14 *ment or administer those laws in furtherance of the pur-*
 15 *poses of this Compact and the allocation formula adopted*
 16 *by the Commission insofar as such actions are not in con-*
 17 *flict with applicable federal laws.*

18 “(b) *Nothing contained in this Compact shall be*
 19 *deemed to restrict the executive powers of the President in*
 20 *the event of a national emergency.*

21 “(c) *Nothing contained in this Compact shall impair*
 22 *or affect the constitutional authority of the United States*
 23 *or any of its powers, rights, functions or jurisdiction under*
 24 *other existing or future laws in and over the area or waters*
 25 *which are the subject of the Compact, including projects of*

1 the Commission, nor shall any act of the Commission have
2 the effect of repealing, modifying or amending any federal
3 law. All officers, agencies and instrumentalities of the Unit-
4 ed States shall exercise their powers and authority over
5 water resources in the ACT Basin and water resource facili-
6 ties, and to the maximum extent practicable, shall exercise
7 their discretion in carrying out their responsibilities, pow-
8 ers, and authorities over water resources in the ACT Basin
9 and water resource facilities in the ACT Basin in a manner
10 consistent with and that effectuates the allocation formula
11 developed pursuant to this Compact or any modification
12 of the allocation formula so long as the actions are not in
13 conflict with any applicable federal law. The United States
14 Army Corps of Engineers, or its successors, and all other
15 federal agencies and instrumentalities shall cooperate with
16 the ACT Basin Commission in accomplishing the purposes
17 of the Compact and fulfilling the obligations of each of the
18 parties to the Compact regarding the allocation formula.

19 “(d) Once adopted by the two states and ratified by
20 the United States Congress, this Compact shall have the full
21 force and effect of federal law, and shall supersede state and
22 local laws operating contrary to the provisions herein or
23 the purposes of this Compact; provided, however, nothing
24 contained in this Compact shall be construed as affecting
25 or intending to affect or in any way to interfere with the

1 *laws of the respective signatory states relating to water*
 2 *quality, and riparian rights as among persons exclusively*
 3 *within each state.*

4 “ARTICLE XI

5 “PUBLIC PARTICIPATION

6 “All meetings of the Commission shall be open to the
 7 public. The signatory parties recognize the importance and
 8 necessity of public participation in activities of the Com-
 9 mission, including the development and adoption of the ini-
 10 tial allocation formula and any modification thereto. Prior
 11 to the adoption of the initial allocation formula, the Com-
 12 mission shall adopt procedures ensuring public participa-
 13 tion in the development, review, and approval of the initial
 14 allocation formula and any subsequent modification there-
 15 to. At a minimum, public notice to interested parties and
 16 a comment period shall be provided. The Commission shall
 17 respond in writing to relevant comments.

18 “ARTICLE XII

19 “FUNDING AND EXPENSES OF THE COMMISSION

20 “Commissioners shall serve without compensation
 21 from the ACT Basin Commission. All general operational
 22 funding required by the Commission and agreed to by the
 23 voting members shall obligate each state to pay an equal
 24 share of such agreed upon funding. Funds remitted to the
 25 Commission by a state in payment of such obligation shall

1 *not lapse; provided, however, that if any state fails to remit*
 2 *payment within 90 days after payment is due, such obliga-*
 3 *tion shall terminate and any state which has made pay-*
 4 *ment may have such payment returned. Costs of attendance*
 5 *and participation at meetings of the Commission by the*
 6 *Federal Commissioner shall be paid by the United States.*

7 *“ARTICLE XIII*

8 *“DISPUTE RESOLUTION*

9 *“(a) In the event of a dispute between the voting mem-*
 10 *bers of this Compact involving a claim relating to compli-*
 11 *ance with the allocation formula adopted by the Commis-*
 12 *sion under this Compact, the following procedures shall gov-*
 13 *ern:*

14 *“(1) Notice of claim shall be filed with the Com-*
 15 *mission by a voting member of this Compact and*
 16 *served upon each member of the Commission. The no-*
 17 *tice shall provide a written statement of the claim, in-*
 18 *cluding a brief narrative of the relevant matters sup-*
 19 *porting the claimant’s position.*

20 *“(2) Within twenty (20) days of the Commis-*
 21 *sion’s receipt of a written statement of a claim, the*
 22 *party or parties to the Compact against whom the*
 23 *complaint is made may prepare a brief narrative of*
 24 *the relevant matters and file it with the Commission*
 25 *and serve it upon each member of the Commission.*

1 “(3) Upon receipt of a claim and any response
2 or responses thereto, the Commission shall convene as
3 soon as reasonably practicable, but in no event later
4 than twenty (20) days from receipt of any response
5 to the claim, and shall determine if a resolution of
6 the dispute is possible.

7 “(4) A resolution of a dispute under this Article
8 through unanimous vote of the State Commissioners
9 shall be binding upon the state parties and any state
10 party determined to be in violation of the allocation
11 formula shall correct such violation without delay.

12 “(5) If the Commission is unable to resolve the
13 dispute within 10 days from the date of the meeting
14 convened pursuant to subparagraph (a)(3) of this Ar-
15 ticle, the Commission shall select, by unanimous deci-
16 sion of the voting members of the Commission, an
17 independent mediator to conduct a non-binding medi-
18 ation of the dispute. The mediator shall not be a resi-
19 dent or domiciliary of any member state, shall not be
20 an employee or agent of any member of the Commis-
21 sion, shall be a person knowledgeable in water re-
22 source management issues, and shall disclose any and
23 all current or prior contractual or other relations to
24 any member of the Commission. The expenses of the
25 mediator shall be paid by the Commission. If the me-

1 diator becomes unwilling or unable to serve, the Com-
2 mission by unanimous decision of the voting members
3 of the Commission, shall appoint another independent
4 mediator.

5 “(6) If the Commission fails to appoint an inde-
6 pendent mediator to conduct a non-binding mediation
7 of the dispute within seventy-five (75) days of the fil-
8 ing of the original claim or within thirty (30) days
9 of the date on which the Commission learns that a
10 mediator is unwilling or unable to serve, the party
11 submitting the claim shall have no further obligation
12 to bring the claim before the Commission and may
13 proceed by pursuing any appropriate remedies, in-
14 cluding any and all judicial remedies.

15 “(7) If an independent mediator is selected, the
16 mediator shall establish the time and location for the
17 mediation session or sessions and may request that
18 each party to the Compact submit, in writing, to the
19 mediator a statement of its position regarding the
20 issue or issues in dispute. Such statements shall not
21 be exchanged by the parties except upon the unani-
22 mous agreement of the parties to the mediation.

23 “(8) The mediator shall not divulge confidential
24 information disclosed to the mediator by the parties
25 or by witnesses, if any, in the course of the mediation.

1 *All records, reports, or other documents received by a*
2 *mediator while serving as a mediator shall be consid-*
3 *ered confidential. The mediator shall not be compelled*
4 *in any adversary proceeding or judicial forum to di-*
5 *vulge the contents of such documents or the fact that*
6 *such documents exist or to testify in regard to the me-*
7 *diation.*

8 *“(9) Each party to the mediation shall maintain*
9 *the confidentiality of the information received during*
10 *the mediation and shall not rely on or introduce in*
11 *any judicial proceeding as evidence:*

12 *“a. Views expressed or suggestions made by*
13 *another party regarding a settlement of the dis-*
14 *pute;*

15 *“b. Proposals made or views expressed by*
16 *the mediator; or*

17 *“c. The fact that another party to the hear-*
18 *ing had or had not indicated a willingness to ac-*
19 *cept a proposal for settlement of the dispute.*

20 *“(10) The mediator may terminate the non-bind-*
21 *ing mediation session or sessions whenever, in the*
22 *judgment of the mediator, further efforts to resolve the*
23 *dispute would not lead to a resolution of the dispute*
24 *between or among the parties. Any party to the dis-*
25 *pute may terminate the mediation process at any*

1 *time by giving written notification to the mediator*
2 *and the Commission. If terminated prior to reaching*
3 *a resolution, the party submitting the original claim*
4 *to the Commission shall have no further obligation to*
5 *bring its claim before the Commission and may pro-*
6 *ceed by pursuing any appropriate remedies, including*
7 *any and all judicial remedies.*

8 “(11) *The mediator shall have no authority to require*
9 *the parties to enter into a settlement of any dispute regard-*
10 *ing the Compact. The mediator may simply attempt to as-*
11 *sist the parties in reaching a mutually acceptable resolution*
12 *of their dispute. The mediator is authorized to conduct joint*
13 *and separate meetings with the parties to the mediation*
14 *and to make oral or written recommendations for a settle-*
15 *ment of the dispute.*

16 “(12) *At any time during the mediation process,*
17 *the Commission is encouraged to take whatever steps*
18 *it deems necessary to assist the mediator or the par-*
19 *ties to resolve the dispute.*

20 “(13) *In the event of a proceeding seeking en-*
21 *forcement of the allocation formula, this Compact cre-*
22 *ates a cause of action solely for equitable relief. No ac-*
23 *tion for money damages may be maintained. The*
24 *party or parties alleging a violation of the Compact*
25 *shall have the burden of proof.*

1 “(b) *In the event of a dispute between any voting mem-*
2 *ber and the United States relating to a state’s noncompli-*
3 *ance with the allocation formula as a result of actions or*
4 *a refusal to act by officers, agencies or instrumentalities*
5 *of the United States, the provisions set forth in paragraph*
6 *(a) of this Article (other than the provisions of subpara-*
7 *graph (a)(4)) shall apply.*

8 “(c) *The United States may initiate dispute resolution*
9 *under paragraph (a) in the same manner as other parties*
10 *to this Compact.*

11 “(d) *Any signatory party who is affected by any action*
12 *of the Commission, other than the adoption or enforcement*
13 *of or compliance with the allocation formula, may file a*
14 *complaint before the ACT Basin Commission seeking to en-*
15 *force any provision of this Compact.*

16 “(1) *The Commission shall refer the dispute to*
17 *an independent hearing officer or mediator, to con-*
18 *duct a hearing or mediation of the dispute. If the*
19 *parties are unable to settle their dispute through me-*
20 *diation, a hearing shall be held by the Commission or*
21 *its designated hearing officer. Following a hearing*
22 *conducted by a hearing officer, the hearing officer*
23 *shall submit a report to the Commission setting forth*
24 *findings of fact and conclusions of law, and making*

1 *recommendations to the Commission for the resolution*
2 *of the dispute.*

3 “(2) *The Commission may adopt or modify the*
4 *recommendations of the hearing officer within 60*
5 *days of submittal of the report. If the Commission is*
6 *unable to reach unanimous agreement on the resolu-*
7 *tion of the dispute within 60 days of submittal of the*
8 *report with the concurrence of the Federal Commis-*
9 *sioner in disputes involving or affecting federal inter-*
10 *ests, the affected party may file an action in any*
11 *court of competent jurisdiction to enforce the provi-*
12 *sions of this Compact. The hearing officer’s report*
13 *shall be of no force and effect and shall not be admis-*
14 *sible as evidence in any further proceedings.*

15 “(e) *All actions under this Article shall be subject to*
16 *the following provisions:*

17 “(1) *The Commission shall adopt guidelines and*
18 *procedures for the appointment of hearing officers or*
19 *independent mediators to conduct all hearings and*
20 *mediations required under this Article. The hearing*
21 *officer or mediator appointed under this Article shall*
22 *be compensated by the Commission.*

23 “(2) *All hearings or mediations conducted under*
24 *this article may be conducted utilizing the Federal*
25 *Administrative Procedures Act, the Federal Rules of*

1 *Civil Procedure, and the Federal Rules of Evidence.*
 2 *The Commission may also choose to adopt some or all*
 3 *of its own procedural and evidentiary rules for the*
 4 *conduct of hearings or mediations under this Com-*
 5 *pact.*

6 “(3) *Any action brought under this Article shall*
 7 *be limited to equitable relief only. This Compact shall*
 8 *not give rise to a cause of action for money damages.*

9 “(4) *Any signatory party bringing an action be-*
 10 *fore the Commission under this Article shall have the*
 11 *burdens of proof and persuasion.*

12 “ARTICLE XIV

13 “ENFORCEMENT

14 *“The Commission may, upon unanimous decision,*
 15 *bring an action against any person to enforce any provision*
 16 *of this Compact, other than the adoption or enforcement of*
 17 *or compliance with the allocation formula, in any court of*
 18 *competent jurisdiction.*

19 “ARTICLE XV

20 “IMPACTS ON OTHER STREAM SYSTEMS

21 *“This Compact shall not be construed as establishing*
 22 *any general principle or precedent applicable to any other*
 23 *interstate streams.*

1 “ARTICLE XVI
2 “IMPACT OF COMPACT ON USE OF WATER WITH-
3 IN THE BOUNDARIES OF THE COMPACTING
4 STATES

5 “The provisions of this Compact shall not interfere
6 with the right or power of any state to regulate the use and
7 control of water within the boundaries of the state, provid-
8 ing such state action is not inconsistent with the allocation
9 formula.

10 “ARTICLE XVII

11 “AGREEMENT REGARDING WATER QUALITY

12 “(a) The States of Alabama and Georgia mutually
13 agree to the principle of individual State efforts to control
14 man-made water pollution from sources located and operat-
15 ing within each State and to the continuing support of each
16 State in active water pollution control programs.

17 “(b) The States of Alabama and Georgia agree to co-
18 operate, through their appropriate State agencies, in the in-
19 vestigation, abatement, and control of sources of alleged
20 interstate pollution within the ACT River Basin whenever
21 such sources are called to their attention by the Commis-
22 sion.

23 “(c) The States of Alabama and Georgia agree to co-
24 operate in maintaining the quality of the waters of the ACT
25 River Basin.

1 “(d) *The States of Alabama and Georgia agree that*
 2 *no State may require another state to provide water for*
 3 *the purpose of water quality control as a substitute for or*
 4 *in lieu of adequate waste treatment.*

5 “*ARTICLE XVIII*

6 “*EFFECT OF OVER OR UNDER DELIVERIES*

7 “*UNDER THE COMPACT*

8 “*No state shall acquire any right or expectation to the*
 9 *use of water because of any other state’s failure to use the*
 10 *full amount of water allocated to it under this Compact.*

11 “*ARTICLE XIX*

12 “*SEVERABILITY*

13 “*If any portion of this Compact is held invalid for*
 14 *any reason, the remaining portions, to the fullest extent pos-*
 15 *sible, shall be severed from the void portion and given the*
 16 *fullest possible force, effect, and application.*

17 “*ARTICLE XX*

18 “*NOTICE AND FORMS OF SIGNATURE*

19 “*Notice of ratification of this Compact by the legisla-*
 20 *ture of each state shall promptly be given by the Governor*
 21 *of the ratifying state to the Governor of the other participat-*
 22 *ing state. When the two state legislatures have ratified the*
 23 *Compact, notice of their mutual ratification shall be for-*
 24 *warded to the Congressional delegation of the signatory*
 25 *states for submission to the Congress of the United States*

1 *for ratification. When the Compact is ratified by the Con-*
 2 *gress of the United States, the President, upon signing the*
 3 *federal ratification legislation, shall promptly notify the*
 4 *Governors of the participating states and appoint the Fed-*
 5 *eral Commissioner. The Compact shall be signed by all three*
 6 *Commissioners as their first order of business at their first*
 7 *meeting and shall be filed of record in the party states.”.*

8 **SEC. 2. INCONSISTENCY OF LANGUAGE.**

9 *The validity of the compact consented to by this Act*
 10 *shall not be affected by any insubstantial difference in its*
 11 *form or language as adopted by the States.*

12 **SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.**

13 *The right to alter, amend, or repeal this joint resolu-*
 14 *tion is hereby expressly reserved.*

15 **SEC. 4. RESERVATIONS.**

16 *To ensure participation of Federal agencies during the*
 17 *development of the allocation formula and participation in*
 18 *all technical working groups and meetings in which the*
 19 *terms and conditions of the allocation formula are nego-*
 20 *tiated and to preserve Federal discretion under law, the*
 21 *consent of Congress to, and participation of the United*
 22 *States in, the Alabama-Coosa-Tallapoosa River Basin Com-*
 23 *pact, is subject to the following conditions and reservations:*

24 *(1) Representatives of any Federal agency may*
 25 *attend any and all meetings of the Commission.*

1 (2) *Upon the request of the Federal Commis-*
2 *sioner, representatives of any Federal agency may*
3 *participate in any meetings of technical committees,*
4 *if any, of the Commission at which the basis or terms*
5 *and conditions of the allocation formula or modifica-*
6 *tions to the allocation formula are to be discussed or*
7 *negotiated.*

8 (3) *The Federal Commissioner shall be given no-*
9 *tice of any meeting of the Commission or any meeting*
10 *of technical committees, if any, of the Commission at*
11 *which compliance with the allocation formula by one*
12 *or more officers, agencies, or instrumentalities of the*
13 *United States is to be discussed.*

14 (4) *Under the provisions of Article VII(a), the*
15 *Federal Commissioner may submit a letter of concur-*
16 *rence with the allocation formula unanimously adopt-*
17 *ed by the State Commissioners within 255 days of*
18 *such adoption.*

19 (5) *No mediator shall be selected under Article*
20 *XIII(b) or Article XIII(c) without the concurrence of*
21 *the Federal Commissioner and no resolution of a dis-*
22 *pute under Article III(c) shall be made binding on the*
23 *United States without the concurrence of the Federal*
24 *Commissioner.*

1 (6) *The obligations of employees, agencies, and*
 2 *instrumentalities of the United States pursuant to*
 3 *Articles VII(b), X(a), and X(c) to exercise their dis-*
 4 *cretion, to the maximum extent practicable, in a*
 5 *manner consistent with the allocation formula shall*
 6 *not be construed to interfere with the ability of such*
 7 *employees, agencies, and instrumentalities to take ac-*
 8 *tions during emergency situations.*

9 (7) *As among water right holders within any one*
 10 *State, nothing in this Compact shall be construed as*
 11 *affecting or intending to affect or in any way to*
 12 *interfere with the laws of the respective signatory*
 13 *States relating to riparian rights of the United States*
 14 *in and to the waters of the Alabama-Coosa-Tallapoosa*
 15 *River Basin.*

16 **SEC. 5. EFFECTUATION.**

17 (a) *FEDERAL AGENCY AUTHORITY.—To carry out the*
 18 *purposes of this Compact, Federal agencies are authorized,*
 19 *as they may deem appropriate—*

20 (1) *to engage in cooperative relationships with*
 21 *the Commission;*

22 (2) *to conduct studies and monitoring programs*
 23 *in cooperation with the Commission;*

24 (3) *to enter into agreements to indemnify private*
 25 *landowners against liability that may arise from*

1 *studies and monitoring programs undertaken in co-*
2 *operation with the Commission; and*

3 *(4) to furnish assistance, including the provision*
4 *of services, facilities, and personnel, to the Federal*
5 *Commissioner.*

6 *(b) APPROPRIATIONS.—Appropriations are authorized*
7 *as necessary for implementing the Compact, including ap-*
8 *propriations for carrying out the functions of the Federal*
9 *Commissioner and alternates and for employment of per-*
10 *sonnel by the Federal Commissioner.*